

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

Matt GREEN,

Plaintiff,

v.

Jon CORZINE, et al.,

Defendants.

Civ. No. 09-1600

OPINION & ORDER

THOMPSON, U.S.D.J.

This matter comes before the Court upon Plaintiff's Appeal [docket # 220] of a magistrate judge order [209] denying Plaintiff's motion to stay, and upon Plaintiff's Appeal [225] of a magistrate judge order [221] denying Plaintiff's motion to appoint an expert. The Court has decided the Appeal upon consideration of the parties' written submissions, without holding oral argument, pursuant to Fed. R. Civ. P. 78(b). For the reasons given below, Plaintiff's appeals are denied, and the Magistrate Judge's Order is affirmed in all respects.

A magistrate judge's determination of a non-dispositive matter will be overturned only when the ruling was "clearly erroneous or contrary to law." L. Civ. R. 72.1(c)(1)(A). A ruling is contrary to law "if the magistrate judge has misinterpreted or misapplied applicable law," whereas a finding is clearly erroneous when the reviewing court "is left with the definite and firm conviction that a mistake has been committed." *Marks v. Struble*, 347 F. Supp. 2d 136, 149 (D.N.J. 2004).

Plaintiff's first appeal [220] challenges the Magistrate Judge's refusal to stay Defendants' motion for summary judgment. Plaintiff believed the motion should be stayed because Defendants allegedly owed Plaintiff discovery materials. The Magistrate Judge denied the stay

because Plaintiff did not request the discovery material until two months after the close of discovery. We find that the Magistrate Judge was not required to stay the motion for summary judgment or otherwise amend the discovery schedule to accommodate Plaintiff. Therefore, the order was not erroneous or contrary to law, and this appeal is denied.

Plaintiff's second appeal [225] challenges the Magistrate Judge's refusal to appoint a medical expert to examine Plaintiff. Plaintiff's appeal argues that the Magistrate Judge was misled into believing that this case presented no medical issue. This is incorrect. The Magistrate Judge recognized that there were medical issues but found that they were within the ken of a layperson and an expert was not necessary. Courts have "broad discretion" in determining whether an expert appointment is necessary, *see Ford v. Mercer Cnty. Corr. Ctr.*, 171 F. App'x 416, 421 (3d Cir. 2006), and we find that the Magistrate Judge's refusal to appoint an expert was not erroneous or contrary to law. Accordingly, this appeal is denied.

#### CONCLUSION

For the foregoing reasons, IT IS, this 7th day of February, 2011,

ORDERED that Plaintiff's Appeal [220] of the Magistrate Judge's order [209] is DENIED; and it is further

ORDERED that Plaintiff's Appeal [225] of the Magistrate Judge's order [221] is DENIED.

/s/ Anne E. Thompson  
ANNE E. THOMPSON, U.S.D.J.